LOGANATHAN PL SUPPIAH

v.

LEMBAGA KELAYAKAN PROFESSION UNDANG-UNDANG MALAYSIA

HIGH COURT MALAYA, KUALA LUMPUR
ABDUL KADIR SULAIMAN J
[ORIGINATING SUMMONS NO: R1-17-3-97]
7 JULY 1997

LEGAL PROFESSION: *Practice of law - Persons who can act as advocate and solicitor - Certificate in Legal Practice Examination - Failure to pass certain subjects - Review of decision of the Qualifying Board - Legal Profession Act 1976, ss. 5(e) & 26 - Specific Relief Act 1950, s. 41*

The plaintiff obtained a degree in Bachelor of Law (LL.B) Honours from the University of Wolverhampton. In order to practise as an advocate and solicitor in the High Court of Malaya he sat for The Certificate in Legal Practice Examination ('the CLP Examination') conducted by the defendant in August 1995. He failed in three out of the five subjects. The plaintiff then obtained from the defendant a booklet entitled "Ringkasan Matapelajaran Peperiksaan Sijil Amalan Guaman Tahun 1996" which contains the Syllabus and Subject Outlines for the CLP Examination for 1996. He sat for the CLP Examination again in August 1996 but again failed in two subjects, namely Criminal Procedure and Professional Practice.

Dissatisfied with the results, the plaintiff filed an originating summons against the defendant for a review under s. 26 of the Legal Profession Act 1976 ('the Act') and for a declaration pursuant to s. 41 of the Specific Relief Act 1950 ('the SRA') praying, *inter alia*, for the following relief:

(1) that the decision of the defendant in examining the plaintiff on Criminal Procedure and Profession Practice for the CLP Examination be reviewed and declared null and void as being *ultra vires* s. 5(e) of the Act and that the defendant be issued the Certificate in Legal Practice;

(2) further or in the alternative, that the examination by the defendant on Criminal Procedure and Professional Practice for the CLP Examination and the subsequent marking thereof be declared null and void and that the plaintiff be entitled to the said Certificate.

In his affidavit, the plaintiff submitted that in examining him the defendant had acted outside the true scope and ambit of the course instruction in relation to question number 5(a) of the Criminal Procedure paper and question numbers 2(a) and 8(c) of the Professional Practice paper. As regards question 5(a), the plaintiff deposed that the defendant purported to examine the plaintiff on jury trial when the procedure for such trial had already been repealed. In regard to question 2(a), the plaintiff deposed that the course instruction separates Advocacy & Ethics but the impugned question was mixed. As regards question 8(c), it purported to question on renunciation but on the facts given, the question of renunciation did not arise by reason of the Distribution Act 1958.

The issue before the Court was firstly, whether the matter that formed the complaint of the plaintiff was subject to review under s. 26 of the Act, and secondly, whether the plaintiff's application came within the ambit of s. 41 of the SRA.

Held:

[1] Section 26 of the Act relates to the review of the "decision" of the Qualifying Board by a Judge, and, if after hearing the application the Judge allows it, then the Judge may make an order as he considers fair and reasonable and one that he is allowed to make under the Act. In carrying out its function under s. 5(e) of the Act, ie in providing the CLP Examination, the defendant is not making any decision within the meaning of s. 26(1) of the Act upon which that decision will be a subject matter for review. Reading the said sub-section with the powers given to the Judge under sub-s. (7) thereof, there is no power given by the Act for the Judge to make any order under it which in this case is to order the defendant to issue the Certificate in Legal Practice to an aggrieved party. Hence, the application of the plaintiff for review under s. 26 of the Act was frivolous and vexatious and was an abuse of the process of the Court.

[2] The phrase "courses of instruction" in s. 5(e) of the Act relates to lectures, tutorials, seminars and sessions at which knowledge is imparted to persons involved in the examination. It does not refer to the booklet on Syllabus and Subject Outlines which is merely a guide and reference in the preparation for the CLP Examination 1996. Moreover, the Introduction itself states that candidates intending to sit for the examination are permitted to make their own arrangements for the examination or to attend courses of instruction run by any private educational institution or college. It is clearly stated that the defendant does not provide any courses of instruction for the CLP Examination.

[3] However, there were merits in the submission of the plaintiff that the remedy under s. 41 of the SRA would be applicable to him. Having been given the opportunity to sit for the CLP Examination and having sat for the examination, there was basis for the plaintiff to expect to succeed in his attempt. Being dissatisfied with the results of the examination, the plaintiff would be entitled to apply under s. 41 of the SRA for remedy. Whether he succeeded in his application would depend on the merits of his case and other considerations such as the exercise of the discretion of the Court in granting declaratory orders.

[4] On the merits of the case, the plaintiff's prayer that he be entitled to the Certificate in Legal Practice on account of the conduct of the defendant was beyond comprehension. If the conduct of the defendant was to be declared null and void, then the whole exercise would become a futility and the plaintiff could not be entitled to the said Certificate.

[5] Hence, the only issue to consider was whether the two papers ought to be declared null and void in as far as the plaintiff was concerned. In respect of question 5(a), by virtue of the saving provisions in s. 39 of the Criminal Procedure Code (Amendment) Act 1995, the procedure of trial by jury notwithstanding the said amendment will continue in respect of cases which have been commenced before or on the commencement of the amendment Act. So in respect of these transitional cases, the practising advocates and solicitors must acquaint themselves when giving advice to their clients. In respect of question 2(a), the note to the Course Outline under item 4 states clearly that the examination papers will contain 4 questions on the topic in section A. There was nothing in the note to suggest that separate questions will be set in respect of Part I and Part II of section A. In respect of question 8(c), the issue of renunciation was a mere red herring. The question merely required the candidate to advise as to how to go about to obtain letters of administration for the estate of a deceased person in the light of the intending objection to the application for the same. Therefore, there was no merit in the plaintiff's argument and he failed to establish that the questions were null and void.

[Application dismissed with costs.]

Case referred to:
Tan Sri Othman Saat v. Mohamed Ismail [1982] 2 MLJ 177 ***(refd)***

Legislation referred to:
Criminal Procedure (Amendment) Act 1995, s. 39
Federal Constitution, arts. 5(1), 8(1)
Legal Profession Act 1976, ss. 3, 4, 5(e), 21(4), 22, 23, 26(1), (7), 28
Specific Relief Act 1950, s. 41

For the plaintiff - Loganathan PL Suppiah (in person)
For the defendant - Porres P Royan; M/s Shook Lin & Bok

JUDGMENT

Abdul Kadir Sulaiman J:

The plaintiff was conferred with a degree in Bachelor of Law (LL.B) Honours by the University of Wolverhampton. He wants to practise as an advocate and solicitor in the High Court of Malaya. Not being a sufficiently qualified person as provided for by s. 3 of the Legal Profession Act 1976 (hereinafter referred to as 'the Act'), he has to, *inter alia*, pass the examination conducted by the defendant pursuant to its function under s. 5(e) thereof. For this purpose the defendant conducts what is called The Certificate in Legal Practice Examination (hereinafter referred to as 'the CLP Examination') to cater for persons in the position of the plaintiff. This examination is being conducted by the defendant once in a year in the month of August.

The plaintiff sat for this examination comprising of five subjects conducted by the defendant in August 1995 but he failed in three of the subjects, to wit, the General Papers, Evidence and Professional Practice. According to the condition laid down by the defendant, in the circumstances of the plaintiff having failed in three subjects, he had to go through the examination all over again. For that reason he wanted to re-sit for the examination in August 1996. For this purpose he obtained from the defendant, Ringkasan Matapelajaran Peperiksaan Sijil Amalan Guaman Tahun 1996, Exh. 'K' to his affidavit in reply, which is a booklet containing as explained in the Introduction to the booklet, Sukatan Pelajaran dan Ringkasan Matapelajaran (Subject Outlines), part of which is exhibited by the plaintiff as Exh. 'E' to his affidavit in support and exhibit 'L' to his affidavit in reply. Having prepared himself for the examination, he sat for it in August 1996. According to the result published, he was again not successful in the said examination. This time he failed in Criminal Procedure and Professional Practice. He is dissatisfied with the result and on 6 February 1997 he filed an originating summons against the defendant for a review under s. 26 of the Act and in pursuance of s. 41 of the Specific Relief Act 1950 and prayed for the following relief:

(1) the decision of the defendant to examine the plaintiff on Criminal Procedure and Professional Practice for the Certificate in Legal Practice Examination (August 1996) be reviewed and declared null and void as being *ultra vires* of s. 5(e) of the Legal Profession Act 1976, and that this Honourable Court do order the defendant to issue the Certificate in Legal Practice with a grade least justified to the plaintiff within fourteen (14) days from the date of the Order to be made hereon;

(2) further or in the alternative, this Honourable Court do declare that the purported examination by the defendant on Criminal Procedure and Professional Practice for the Certificate in Legal Practice 1996 (August) and the subsequent marking thereof are null and void and that the plaintiff is entitled to the said Certificate;

(3) the defendant do pay damages to be assessed to the plaintiff;

(4) this Honourable Court do grant such other or further relief as it may deem just and equitable to grant in the circumstances;

(5) the defendant do pay the plaintiff costs and incidental to this application.

In his affidavit in support the plaintiff deposed that in examining him the defendant acted outside the true scope and ambit of the course instruction in relation to question number 5(a) of the Criminal Procedure Paper and question numbers 2(a) and 8(c) of the Professional Practice Paper. The impugned questions, exhibited as 'F' to his affidavit in support are as follows:

Criminal Procedure Paper:

5(a) Rabin and Bacha was charged for murder under s. 302 of the Penal Code read together with s. 34 of the said Code. After a preliminary inquiry, on 10 June 1994, Rabin and Bacha were committed to stand trial in the High Court. The trial in the High Court is to commence on 19 August 1996. The Criminal Procedure Code (Amendment) Act 1995 (A908) came into effect on 17 February 1995.

Advise Rabin and Bacha as to whether they are entitled to a trial by jury in the High Court.

Professional Practice Paper:

2(a) It is the duty of an advocate and solicitor to uphold, the interest of client, justice and the dignity of the profession.

Discuss the above statement in connection with the following situations:

common solicitor acting for both parties; and

(ii) conflict of duties between that owed to the client and to the Court.

8(c) Ivan, a bank clerk, was knocked down by a mini bus while crossing the road. He was admitted to the University Hospital and died the following day. He was a bachelor and is survived by his mother, Grace and two sisters and a brother namely, Ivy, Cintha and Robert. Grace is 63 years old and is taken care of by Ivy and her husband, James.

Ivy and Cintha are very close and Cintha often visited her mother to help Ivy. Robert who was never close to the family, stayed separately and was of no help to them. Ivy and James lived in the family home, which was left to Grace by her late husband.

Ivy and Cintha decided that their mother Grace, should apply for the Letters of Administration to administer the estate of Ivan and that they would renounce their rights to any claim to the estate of Ivan.

Robert, being a difficult person to handle, was approached by the family to renounce his rights. He was aggressive and abusive towards them. Robert claimed that Ivy and James had plans to get the assets of the late Ivan, as Grace was old and was staying with them. He refused to give consent to any renunciation of his rights.

At the time of his death, the late Ivan was a bank clerk earning RM1,500 a month. He had a bank balance of RM8,725.65 in his savings account with Bank Simpanan Nasional. He also had an insurance policy for RM20,000 with Susahbayar Insurance Co. and owned a second-hand car.

Robert plans to oppose his mother's application for Letters of Administration.

Advise Grace as to how she should go about obtaining the Letters of Administration for the estate of Ivan.

In regard to Criminal Procedure question 5(a) the plaintiff deposed that the defendant acted outside the true scope and ambit of the course of instruction as the defendant purported to examine on jury trial when the procedure for such trial has been repealed. In regard to question 2(a) he deposed that the course instruction separates Advocacy and Ethics but the impugned question was mixed. As regards question 8(c) it purports to question on renunciation but on the facts given, the question of renunciation did not arise by reasons of the Distribution Act 1958.

Consequently, he deposed that he verily believed that if not for the said flawed questions the results he would have obtained out of the August 1996 examination would have been otherwise, i.e. he would have passed the two papers in the 1996 examination. As such the decision of the defendant to examine him on the two papers are nullity as being in *ultra vires* of s. 5(e) of the Act. Or otherwise, the said decision was made by the defendant without or in excess of jurisdiction and not in accordance with the law which had

directly affected his fundamental rights or its inevitable effect or consequence on his fundamental rights to livelihood by virtue of the combined effect of Art. 8(1) and 5(1) of the Federal Constitution. By reasons of the defendant's statutory and contractual breach he has suffered injury to feelings, mental distress and pecuniary damages. For all those reasons he prayed for an order in the terms of his application herein.

In reply to the said affidavit of the plaintiff, the defendant filed an affidavit affirmed by its Director of Examination, Khalid bin Yusof denying the allegation of the plaintiff and question the propriety of the plaintiff to seek for a review under s. 26 of the Act relating to the function of the defendant under the Act in providing the CLP examination to the candidates. He deposed that the material which the plaintiff obtained from the defendant was a mere outline of the subject courses and were meant to be a guide for the candidates, including the plaintiff, sitting for the examination. They are not the course of instruction as alleged by the plaintiff.

First, is the issue of whether the matter that forms the complaint of the plaintiff is subject to review under s. 26 of the Act? This section is one of 25 other sections contained in Part II of the Act beginning with s. 4 and ending with s. 28. Part II concerns the Qualifying Board which is the defendant in this case. Of relevance to this application of the plaintiff relating to s. 26 is sub-ss. (1) and (7) which states:

> 26(1) Any person dissatisfied with any decision of the Board may apply to a Judge for a review of the decision.
>
> (7) At the hearing the Judge may dismiss the application or make any order under this Act as he considers fair and reasonable. (underline provided).

Therefore, the said sub-sections of s. 26 relates to the review of the "decision" of the Board by a Judge, and if after hearing the application of the person dissatisfied with the said decision and if the Judge allows the application then the Judge may make an order as he considers fair and reasonable. But the order that he is allowed to make is one under the Act and not any order extraneous to the one allowed under the Act. So, what then are the decisions of the Board which is subject to review under s. 26(1) and what are the orders under the Act which the Judge could make upon the application being successful? The plaintiff who appeared in person in this proceedings submitted that the decision of the defendant which he is challenging is the decision to set the impugned questions outside the course of instruction provided.

Under s. 5(e) of the Act the defendant is given the function:

to provide courses of instruction for, and for the examination of, persons whose qualifications are not sufficient to make them qualified persons for the purposes of this Act except after undergoing the courses and passing the examination.

It is not in dispute that the plaintiff is one whose qualifications are not sufficient to make him a qualified person for the purposes of the Act, in not having the qualification of a qualified person as defined in s. 3 of the Act. Therefore, to be so qualified, the plaintiff, *inter alia*, will have to undergo the courses of instruction and pass the examination provided by the defendant which comes within its function under s. 5(e) to provide. What then are courses of instruction to be provided by the defendant? According to the plaintiff, they are those materials which he obtained from the defendant. But according to the submission of En. Porres Royan, Counsel for the defendant, courses of instruction relate to lectures, tutorials, seminars and sessions at which knowledge is imparted to persons involved in the examination whereas the material obtained by the plaintiff are not. I am inclined to agree with the submission of En. Royan. It is clear from the content of Exh. 'K' that what the plaintiff claimed to have obtained from the defendant in preparation for the August 1996 was a booklet containing the Syllabus and Subject Outlines (Sukatan Pelajaran and Ringkasan Matapelajaran) which was to be used as a guide and for reference in his preparation for the CLP examination in 1996. They are not courses of instruction as claimed by the plaintiff because the Introduction itself states that candidates intending to sit for the examination were permitted to make their own arrangement for the examination or to attend courses of instruction run by any private educational institution or colleges. It is clearly stated that the defendant does not provide any courses of instruction for the CLP examination. The defendant merely handles matters relating to the examination including ascertaining the qualification of the candidates, registration of candidates, determine the syllabus for the examination, preparation of question papers, supervise the examination, processing the results of the examination, announcing the result, and the issuing of certificates.

Reverting back to the issue of whether the matter that forms the complaint of the plaintiff is a subject matter for review under s. 26 of the Act. Based on s. 26 of the Act, En. Royan submits that the plaintiff's so called grievance is not amenable to review under the section. The setting of the relevant examination was the function given to the defendant by the Act. The plaintiff is not happy with three of the several questions set in two of the papers out of the rest for the purpose of the 1996 examination. It is the contention of the defendant that the action of the defendant in providing the examination is not a decision making process as contemplated by s. 26 of the Act upon which that action would be a subject matter for review. The learned Counsel listed

out examples wherein the decision of the defendant would be subject to review under s. 26. They are the provisions relating to the decision of the defendant under s. 21 when the defendant refuses special leave sought to qualify an advocate and solicitor of less than seven years standing and not in active practice to be a principal, or where the defendant discharges the articles of the articled clerk pursuant to sub-s. 4 thereof. Another instance is where the defendant discharges the articles of the articled clerk under ss. 22 or 23 of the Act. The learned Counsel further submits that even if he was wrong in relation to the function of the defendant to provide examination not being a decision, but in the light of sub-s. 26(7) the plaintiff would have no remedy because the Act does not have a provision allowing the Judge to order the defendant to issue the plaintiff with a Certificate in Legal Practice as sought for by the plaintiff in this application. The plaintiff on the other hand, made no submissions at all on this point. Again, I share the view of En. Royan on this in that in the carrying out of a function under s. 5(e) of the Act, the defendant is not making any decision within the meaning of s. 26(1) of the Act for reading the said sub-section with the powers given to the Judge under sub-s. (7) thereof, there is no power given by the Act for the Judge to make any order under it which in this case to order the defendant to issue the Certificate in Legal Practice to an aggrieved party. In the circumstances, I hold that this application of the plaintiff for review under s. 26 of the Act is frivolous and vexatious and is an abuse of the process of Court. The first prayer of the plaintiff for an order that the defendant issue him with the Certificate in Legal Education under the circumstances must therefore, be dismissed.

But the plaintiff submits that if it was so that his application does not come within the ambit of s. 26 of the Act, his second prayer relates to the remedy under s. 41 of the Specific Relief Act 1950. The said section states:

> 41. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to the character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in that suit ask for any relief:
>
> Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration or title, omit to do so.

The defendant, however, did not provide any submission on this. I find there is merit in the submission of the plaintiff for having been given the opportunity for the plaintiff to sit for the August 1996, and having sat for the examination there was basis for the plaintiff to expect to succeed in his attempt. He is now dissatisfied with the result of the examination. To that extent he is entitled

to pray as he did in his second prayer earlier mentioned. Whether he is to succeed in his application as prayed for in the second prayer is a matter for argument and determination on the merit at which other considerations such as the exercise of the discretion of the Court in granting declaratory orders will have to be taken into account in the circumstances of the case: see *Tan Sri Haji Othman Saat v. Mohamed bin Ismail* [1982] 2 MLJ 177. There is no further relief than a mere declaration, that I can think of, which the plaintiff can seek in the light of the rejection of his first prayer. Having said that I will now proceed to consider the merit of the application in regard to the plaintiff's second prayer.

The plaintiff by this second prayer seeks the Court for a declaration that the examination by the defendant on Criminal Procedure and Professional Practice for the CLP examination in August 1996 and the subsequent marking thereof are null and void and consequently he is entitled to the said Certificate. In my view, his consequential prayer that he is entitled to the said Certificate on account of the conduct of the defendant is beyond comprehension because, if it is so that the conduct of the defendant is to be declared null and void, then the whole exercise became a futility and under the circumstances, how is he to be entitled to the said Certificate? A person in his capacity would be entitled only to a Certificate in Legal Practice if he passes the examination validly carried out and through the wrong doing of the defendant in determining the result of the examination that he was not given one. But in this case the plaintiff seeks for a declaration that the examination in relation to the two papers he sat was null and void. If he succeeds to establish that it is of no effect then it is to be regarded as if he has not sat for the two papers in the examination. He does not pray that he be allowed to re-sit for the two papers on account of they being of no effect.

So, on this second prayer of the plaintiff the only issue to consider is whether the two papers ought to be declared null and void in as far as the plaintiff is concerned. First in relation to question 5(a) of the Criminal Procedure Paper. The plaintiff's argument is that the question purports to examine him on the procedure for jury trial consequent upon the amendment to the Criminal Procedure Code by the Criminal Procedure Code (Amendment) Act 1995 when such procedure had been abolished by the said amendment Act. Whilst it is true that the procedure for jury trial in criminal matters had been abolished in this country by Act A908 which came into force on 17 February 1995, the said amendment provides a saving provision in s. 39 thereof as follows:

> 39(1) Any preliminary inquiry, trial by jury or trial with the aid of assessors that has been commenced before or on the commencement of this Act shall be continued or concluded in all respects as if this Act had not been passed.

(2) For the purpose of sub-s. (1), any preliminary inquiry or trial has been commenced when the accused has appeared before or has been brought before the Magistrate's Court or the High Court, as the case may be, and evidence has begun to be adduced in the inquiry or trial.

By the said saving provisions, the procedure of trial by jury notwithstanding the said amendment to the Criminal Procedure Code would continue in respect of cases which has been commenced before or on the commencement of the amendment Act. Any preliminary inquiry before the Magistrate or trial by jury in the High Court consequent upon the committal by the Magistrate after the preliminary inquiry held, which was commenced before or on 17 February 1995 would be continued or concluded as if the amendment to the Criminal Procedure Code had not been made to abolish the procedure for trial by jury. So in respect of this transitional cases that the practising advocates and solicitors must acquaint themselves when giving advise to their clients. Turning to the impugned question 5(a) Rabin and Bacha on 10 June 1994, before the coming into force of the amendment Act, were committed to stand trial in the High Court after a preliminary inquiry. The trial in the High Court was to commence on 19 August 1996 which date was after the coming into force of the amendment Act. Question 5(a) requires an answer from the candidate in the examination as to the advice to be given to Rabin and Bacha as to whether they are entitled to a trial by jury in the High Court in the circumstances. So the question centres around the operation of the saving provisions in s. 39 of the amendment Act. It is not correct therefore, as contended by the plaintiff that the question purports to examine him on the procedure for jury trial when such procedure had been abolished by the amendment Act. He says that the procedure was no more in existence because when referring to the Criminal Procedure Code as at the date of the examination, the provisions had been deleted from the Criminal Procedure Code. While acknowledging that the notes to the course outline provided by the defendant states that students are to keep abreast with amendments to the statutes and to read relevant Court decisions up until the end of May 1996, the plaintiff argues that repeal does not include amendment. With the tongue in the cheek, the plaintiff however concedes that amendment includes repeal for purpose of interpreting a statute but not for the purpose of interpreting the course outline. I see no merit in his argument in relation to question 5(a) and in the circumstances he fails to establish that the said impugned question is null and void.

Next, on question 2(a) of the Professional Practice Paper. The plaintiff's argument amounts to this. Section A Part I of the course outline in respect of Professional Practice concerns Advocacy and Duties of Counsel whilst Part II concerns Ethics of the Legal Profession. However, question 2(a) appearing

under Part A of the question papers consists of question in respect of "common solicitor acting for both parties" which has no relevance to advocacy and duties of Counsel at all. The plaintiff is saying that the defendant has combined the subject matters in Part I and Part II of the course outline into one single question instead of having separate question for Part I and a separate one for Part II. But little does he realise that the course outline in respect of Professional Practice provides for two sections, to wit, section A and section B. Section A comprises of Part I (Advocacy and Duties of Counsel), and Part II (Ethics of the Legal Profession). Section B comprises of matters relating to Land Law and Conveyancing, Law of Bankruptcy, and Probate and Administration. Administration of Estates comes under Part III in the Course Outline as evidenced by exhibit 'L' to the affidavit in reply of the plaintiff.

The examination papers in respect of Professional Practice, on the other hand, divide the papers into two parts, Part A and Part B. Part A embraces the subjects covered by section A of the Course Outline which in turn is made up of Part I (Advocacy and Duties of Counsel) and Part II (Ethics and the Legal Profession). The note to the Course Outline under item 4 states clearly that the examination papers will contain four questions on the topics in section A. There is nothing in the note to suggest that separate questions will be set in respect of Part I and Part II of section A. But when we look at the question papers for Professional Practice for 1996 examination, it is clearly stated that the paper consists of two parts, A and B, which is respectively related to section A and section B topics of the course outline. Question 2(a) appears under Part A which relates to section A topics of the course outline. So there is no basis for the plaintiff to say that the defendant has combined the subject matters in Part I and Part II of the course outline into one single question. Therefore, there is no merit at all for the challenge in question 2(a) of the Professional Practice Paper.

On question 8(c) of the Professional Practice Paper, the plaintiff alleges that the said question is devoid of any meaning, *ultra vires* and unlawful on the premise that the impugned question concerns renunciation when it should not arise by reason of the Distribution Act 1958. I see no merit in the contention of the plaintiff. Upon the analysis of the said question, the issue of renunciation is a mere red herring. The question merely requires the candidate to advise as to how to go about to obtain letters of administration for the estate of a deceased person in the light of the intending objection to the application for same.

Under the circumstances, I see no merit at all in the application of the plaintiff as contained in his second prayer. Similarly, as mentioned earlier the plaintiff has no merit as regards his first prayer as it does not concern s. 26 of the

Act. I therefore, dismiss this application of the plaintiff by originating summons against the defendant with costs to the defendant.

Reported by Ling Hea Hoon